



JUDICIAL INVESTIGATION COMMISSION

Post Office Box 1629
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May 7, 2001

Re: JIC Advisory Opinion 2001-11

Dear

Recently you asked for an advisory opinion from the Judicial Investigation Commission regarding your prospective appointment as a member of a twelve-person contingent on the board of the Courthouse Facilities Improvement Authority recently created by House Bill 2844. You stated that you wished to be a voting member of that board as a representative of the County Commissioners Association. You indicated that the purpose of the authority was to study the problems involving all county courthouse facilities in the state and propose a method whereby state and local governments may address those needs. You suggested that this work would appear to further the interest and well-being of the West Virginia state court system.

To answer the inquiry which you have made, the Commission reviewed Canon 4 of the Code of Judicial Conduct which states in relevant part:

Canon 4. A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

A. Extra-judicial activities in general. - A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties.

Commentary. - Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives.

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B. Avocational activities. - A judge may speak, write, lecture, teach, and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice, and non-legal subjects, subject to the requirements of this Code.

Commentary. - As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, a judge is encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law. Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary, and the integrity of the legal profession and may express opposition to the persecution of lawyers and judges in other countries because of their professional activities. . . .

C. Governmental, civic, or charitable activities. - (1) Governmental activities. A judge may appear at a public hearing before, or otherwise consult with, an executive or legislative body or official on matters concerning the law, the legal system, or the administration of justice or when acting pro se in a matter involving the judge or the judge's interests, subject to the requirements of this Code.

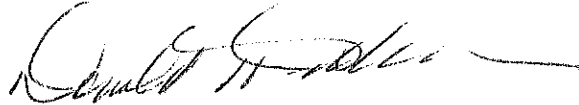
(2) Quasi-judicial activities. - A judge may serve as member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund-raising activities. A judge may make recommendations to public and private fund-raising agencies on projects and programs concerning the law, the legal system, and the administration of justice.

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Based upon the language contained in the relevant sections of Canon 4, it is the opinion of the Commission that you may serve on the authority as a voting member. It is hoped that this fully addresses the question which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Donald H. Cookman", followed by a long horizontal flourish.

Donald H. Cookman, Chairperson
Judicial Investigation Commission

DHC:nb